

AN ORDINANCE 99907

APPROVING A COMPETITIVE MATTER MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND CITY PUBLIC SERVICE (CPS) TO GRANT ADDITIONAL FLEXIBILITY IN PURSUING WHOLESALE OFF-SYSTEM SALES.

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WHEREAS, on September 30, 2004, pursuant to Ordinance No. 99823, the City approved modifications to CPS' modified electric rate schedules, which were a necessary component in the exercise of CPS' Right of First Refusal related to the purchase of an additional 12% ownership interest in the South Texas Project (STP) nuclear power plant; and

WHEREAS, as a result of that purchase, CPS will have the opportunity to sell excess energy to wholesale off-system customers; and

WHEREAS, the Electric Reliability Council of Texas (ERCOT) wholesale electric market is a competitive market and offers opportunities to CPS to maximize its electric power generation assets by making sales of excess energy to off-system wholesale customers; and

WHEREAS, the approval of a Competitive Matter Memorandum of Understanding (MOU) between the City and CPS granting CPS the authority to implement wholesale off-system pricing strategies under certain circumstances is necessary to place CPS in a more favorable position when pursuing such sales, and it is expected to have a positive impact on the CPS system and its customers by generating additional revenue for the CPS system; and

WHEREAS, the MOU that details the flexibility being granted to CPS, and how the system will benefit from revenues, shall remain confidential pursuant to §552.133 of the Texas Public Information Act (Chapter 552 of the Tex. Govt. Code); and

WHEREAS, upon a good faith determination by the City Council that the subject matter of the MOU is an appropriate competitive matter, the MOU shall be outlined for City Council in executive session pursuant to §551.086 of the Texas Open Meeting Act (Chapter 551 of the Tex. Govt. Code); and

WHEREAS, the subject has already been identified as a competitive activity pursuant to CPS' Competitive Matters Resolution, and the details of that activity, if disclosed, would confer an advantage upon actual and prospective competitors of CPS; and

WHEREAS, the City Clerk shall maintain a certified executive session agenda or tape recording that includes the substantive details of the MOU that will be presented in executive session and the City Council will vote on the MOU in the public forum; and

WHEREAS, this Ordinance shall remain on file for public access in the City Clerk's office, however, the MOU shall not be attached to the Ordinance and shall remain confidential and be maintained by the appropriate City and CPS staff; and

WHEREAS, this action is anticipated to generate additional revenue for CPS and the City; and

WHEREAS, this item was reviewed by the Public Utilities Division, the City Attorney's Office and City Public Service; **NOW THEREFORE:**


BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The Competitive Matter Memorandum of Understanding between the City and City Public Service to allow CPS greater flexibility in pursuing certain wholesale off-system sales is hereby approved. The Interim City Manager, or his designee, is authorized to execute the MOU consistent with the information provided to City Council in executive session; however, the MOU shall not be attached to this Ordinance. City Council reserves the right to modify or revoke this grant of flexibility, however, such action will have no effect on the then-existing contracts of CPS made before the effective date of the modification or revocation. The MOU shall be clearly marked as "Confidential" and maintained by the Supervisor of Public Utilities, by CPS, and in the City Clerk's executive session files.

SECTION 2. This Ordinance shall take effect on the tenth (10th) day after the date of passage hereof.


MAYOR
EDWARD D. GARZA

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney